

44474  
DO

SERVICE DATE – MAY 22, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1112X

CALDWELL RAILROAD COMMISSION—ABANDONMENT EXEMPTION—IN  
CALDWELL COUNTY, N.C.

Decided: May 21, 2015

On April 13, 2015, the Caldwell Railroad Commission (CRC) filed a verified notice of exemption under 49 C.F.R. § 1152.50 to abandon a 3.91-mile rail segment extending between milepost 108.79 and milepost 112.7 in Caldwell County, N.C. (the Line). For the reasons discussed below, the notice will be dismissed as moot.

The Line is part of a 22.1-mile rail line known as the HG Line, which extends from milepost HG-90.6 at Hickory, N.C., to milepost HG-112.7 at Valmead, N.C., in Caldwell, Burke, and Catawba Counties, N.C. The Interstate Commerce Commission (ICC) granted a petition by CRC's predecessor, the Caldwell County Economic Development Commission (CCEDC), seeking an exemption from all obligations under 49 U.S.C. Subtitle IV in connection with CCEDC's purchase of the HG Line from Norfolk Southern Railway Company in 1995. See Caldwell Cnty. Econ. Dev. Comm'n—Exemption from 49 U.S.C. Subtitle IV, FD 32659 (ICC served Aug. 3, 1995) (1995 Decision). Upon acquiring the HG Line, CCEDC leased it to the Caldwell County Railroad Company, which operated over the HG Line until 2007. See Caldwell Cnty. R.R.—Discontinuance of Serv. Exemption—in Caldwell Cnty., N.C., AB 999X (STB served July 9, 2007).

On August 28, 2014, in a separate proceeding, CRC filed a petition seeking to revoke the Subtitle IV exemption its predecessor had received in 1995 for the purpose of filing a notice of exemption under 49 C.F.R. § 1152.50 and railbanking the Line pursuant to 16 U.S.C. § 1247(d). See Pet., Caldwell R.R. Comm'n—Exemption from 49 U.S.C. Subtitle IV, FD 32659 (Sub-No.1) (filed Aug. 28, 2014). The Board denied CRC's revocation request on November 26, 2014, "without prejudice to its filing, in [that] docket, a new petition to revoke that provides its reasoning as to why the [rail transportation policy] factors warrant revocation." Caldwell R.R. Comm'n—Exemption from 49 U.S.C. Subtitle IV, FD 32659 (Sub-No.1), slip op. at 2 (STB served Nov. 26, 2014). We have received no further filings in that proceeding.

The ICC's 1995 Decision granting the Subtitle IV exemption specifically found that prior to consummating any future abandonment of the Line, CCEDC (now CRC) must notify the agency of its intent to abandon, submit any required environmental or historic data, and comply

with any conditions that might be imposed. 1995 Decision, slip op. at 3.<sup>1</sup> Thus, while no request for abandonment authority from CCEDC or its successor CRC is required for the Line, if CRC does wish to consummate abandonment, the requirements described in the 1995 Decision (notice, environmental or historic data to permit environmental review, and compliance with any imposed conditions) must be fulfilled.

CRC's verified notice therefore will be dismissed as moot because the broader blanket exemption from Subtitle IV granted in the 1995 Decision encompasses authority to abandon the Line. See also L.A. Cnty. Metro. Transp. Auth.—Aban. Exemption—in L.A. Cnty., Cal., AB 409 (Sub-No. 6X) (STB served Feb. 8, 2012) (dismissing a verified notice of exemption because the owner of the line had been granted a Subtitle IV exemption); L.A. Cnty. Metro. Transp. Auth.—Aban. Exemption—in L.A. Cnty., Cal., AB 409 (Sub-No. 5X) (STB served July 17, 2008) (same).

It is ordered:

1. The notice of exemption is dismissed as moot.
2. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

---

<sup>1</sup> CCEDC had agreed that it would do so by letter dated April 19, 1995. See 1995 Decision, slip op. at 3.